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Federal Communications Commission
Washington, D.C. 20554

October 24, 1994

CC DO. 93-22

DOCKET FILE COPY ORIGINAL

RECEIVED

OCT 24 1994

FEDERAL COMMUNICATIONS COMMISSION
SECRETARY

The Honorable Bob Graham
United States Senator
Post Office Box 3050
Tallahassee, Florida 32315
Attention: Sharon McLanahan

Dear Senator Graham:

This letter responds to your correspondence on behalf of John Smith regarding charges on his telephone bill and relating to information services provided on 800 numbers. Your letter, as well as the complaint of your constituent, has been referred to the Enforcement Division of the Common Carrier Bureau for review. The Enforcement Division will communicate with your constituent upon completion of its review.

The Telephone Disclosure and Dispute Resolution Act (TDDRA) was enacted by Congress in 1992 and required both the Federal Communications Commission and the Federal Trade Commission (FTC) to adopt rules governing the provision of pay-per-call services. Under the TDDRA, the FCC has jurisdiction over the telecommunications carriers involved in the transmission and billing of the telephone calls, while the Federal Trade Commission has jurisdiction over the information service companies themselves.

The TDDRA generally required pay-per-call services to be provided on 900 telephone numbers and generally prohibited the provision of these services on 800 numbers, except in instances where the caller has entered into a presubscription agreement or comparable arrangement with the information service provider. Pursuant to the Commission's rules, which became effective on September 24, 1993, a presubscription agreement entails a formal contractual understanding whereby the consumer is provided clearly and conspicuously all terms and conditions associated with the use of the service and affirmatively agrees to abide by them.

The Commission has received numerous complaints similar to those described by your constituent. These complaints are processed by the Enforcement Division of the Common Carrier Bureau by serving a copy of the complaint upon the telecommunication carriers involved, who must generally respond in writing within 30 days. Beyond reviewing these

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List A B C D E

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complaints and pursuing appropriate action to resolve them, the Commission has undertaken several efforts. First, Common Carrier Bureau staff has met with the carriers that provide the billing service for calls to 800 numbers as well as interexchange carriers who provide the 800 number transport to emphasize their obligations under the TDDRA and the rules of the Commission. Secondly, because the increase in the number of complaints has been so significant, we have started an investigation of these practices, with special focus on whether any companies have attempted to evade or violate our rules. Additionally, as part of the effort to make clear the carriers' responsibilities under the law, the Common Carrier Bureau has recently issued a ruling holding that the information provider's receipt of the originating telephone number, a practice that was serving as the premise of some charges, does not in itself constitute a presubscription agreement.

Moreover, on August 2, 1994, the Commission instituted a Notice of Proposed Rulemaking seeking to strengthen Commission rules to prevent abusive and unlawful practices under the TDDRA. Specifically, the Commission has sought public comment on a proposal to require that a presubscription agreement be established only with a legally competent individual and executed in writing, and that common carriers obtain evidence of the written agreement before issuing a telephone bill that contains charges for presubscribed information services. Under the proposed rules, these telephone bills could be addressed only to the individual who actually entered into the presubscription arrangement, not to the person or company whose telephone was used to place the call. The Commission has tentatively concluded that this and other proposed changes would significantly assist in eliminating the source of many consumer complaints. Enclosed is a summary of the Commission's action in this regard.

We appreciate receiving your correspondence. Please call upon us if we can provide any additional information.

Sincerely,



Kathleen M.H. Wallman
Chief
Common Carrier Bureau

Enclosure

Bob Graham
Florida

United States Senate
Washington, D.C.

DLA
CC-800
CC-900
Date 9/14/94

Federal Communications Commission
Office of Congressional Affairs
Room 808, 1919 M Street
Washington, D.C. 20554

4/30

Enclosed is a letter from one of my constituents who has concerns which come under the jurisdiction of your agency.

I would appreciate your reviewing this situation and providing me with an appropriate response. Please direct your reply to:

Sharon McLanahan
Office of Senator Bob Graham
Post Office Box 3050
Tallahassee, FL 32315

904/422-6100

Your cooperation and assistance are appreciated.

With kind regards,

Sincerely,



United States Senator

Constituent's Name:

John Wm. Smith

*Spoke with Linda in Lampco office
8 Sep 94
work phone 813 273 4876
Please phone me*

08 Sept 1994

Gentlemen:

In the last two months, it has come to my wife's and my attention that the availability to sexually explicit phone messages and conversations is increasing beyond belief. Through the use of television ads and magazine ads, one of my minor aged children obtained access to these sexually explicit phone messages and conversations. Most of these (according to AT&T long distance information) are accessed through toll-free numbers. These then initiate a toll call (usually overseas toll calls) to the places that handles the sexually explicit phone messages and conversations. According to an AT&T technical person in their "1-800" sales division, this type of service is available to any paying customer, no questions asked. Also according to AT&T, the "1-800" business is the most lucrative aspect of AT&T's business, so these types of "services are motivated strongly by GREED. The AT&T personnel to contact about are Mr. John Donovan in sales at 1-800-292-1216 and Glenn Benjamin at 1-305-977-5875 for technical questions.

We are enclosing a complete list of the overseas and USA toll calls to these sexually explicit phone messages and conversations businesses. We are also enclosing a 3 July 1994 Orlando, Fla Sentinel newspaper article about the same thing.

We beg you to assist in doing in your power to bring these businesses to justice.

Sincerely,

John Wm. and Suzanne Smith
6755 Indian River Blvd.
Grant, FL 32949
407-768-9593 home

Phone-sex lines have foreign ring to them

□ Dial-a-porn services are moving offshore to circumvent FCC rules against obscenity.

SAN FRANCISCO — Ever yearn to talk dirty with someone in the former Soviet Union? Want to be verbally abused by a dominatrix in the Dominican Republic?

If you ring up dial-a-porn numbers these days, you may be doing just that — whether you realize it or not. You'll certainly find out when you get your phone bill.

To circumvent Federal Communications Commission rules against over-the-phone obscenity, dial-a-porn services are increasingly moving offshore — sometimes way, way offshore.

Take, for example, that number offering "sizzling, uncensored" talk with "Vixen Vicky." Dial it and your call gets routed to the nation of Moldova, in the former Soviet Union.

Call the number for the "super kinky sex party" and you'll talk to someone in Guyana. "Steamy kinky fantasies" gets you Nicaragua. "Hot talk" connects you to Sao Tome and Principe, an island nation off the west coast of Africa.

"We're seeing more and more of these [dial-a-porn] services heading to other countries, where they're outside the jurisdiction of the FCC," said AT&T spokeswoman Lynn Newman. "It's the latest thing."

Since 1968, it has been a violation of the Federal Communications Act to transmit obscene material over the phone for commercial purposes. The U.S. Supreme Court has since upheld the law.

As a result, phone sex lines currently using 800 or 900 numbers are either toned down to the point of being innocuous or are operating illegally, said FCC spokesman Keith Nichols.

Because overseas dial-a-porn calls are unregulated, nobody at the FCC, AT&T or Pacific Bell could estimate how many people are circumventing the international obscenity laws.

Most overseas dial-a-porn calls begin with 011, the international dialing access code, followed by 109 or 108, the area code for small long-distance countries. Most advertise that there is no fee except the long-distance charge.

Here's how the system works, according to Pacific Bell spokesman Dan Thiebold: A dial-a-porn provider will set up a phone line, typically in a small country with a government-owned phone system.

In exchange for the increased volume of revenue-producing calls to that system, the government phone company agrees to cut the dial-a-porn provider in on a share of the proceeds.

In most cases, according to Thiebold and others, the person talking dirty to you is actually in the foreign country you call.

But not always. A caller to a number with a Moldova country code recently found his call rerouted to somewhere in the Caribbean. Dominique, the dominatrix at the other end, would not say exactly where she was located.

"I get calls from every country," she said. "I speak English, Italian, German, French, and Spanish."

FCC industry analyst Peyton Wynns had no idea why a phone-sex company would go to the trouble of rerouting such a call. He did offer a guess, though.

"Maybe they get a better cut from Moldova but they're having trouble finding enough women who could speak English," he said. "If it's not that, I don't know."

Another reason dial-a-porn companies like overseas calls: They look just like any other international call on a phone bill. This helps them get around employers who block 876 phone numbers from their office workers.



Account Number

BI Date

Jun 13, 1994

MELB

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FOR QUESTIONS REGARDING AT&T CHARGES CALL 1-800-222-0300

AT&T Invoice Charges For Period Ending JUN 06, 1994

Direct Dialed Calls

	Date	Place Called	Number Called	*Rate	Time	Min.	AMOUNT	TOTAL
1.	MAY 8	HONG KONG	852172150720	T	1142AM	2	3.75	
2.	MAY 8	HONG KONG	852172150480	T	1143AM	2	3.75	
3.	MAY 8	HONG KONG	852172154135	T	1147AM	1	2.75	
4.	MAY 8	NEW YORK	NY 212 891-2444	N P	1152AM	2	.25	
5.	MAY 8	HONG KONG	852172150210	T	1155AM	1	2.72	
6.	MAY 8	SURINAME	597429000000	R	1200PM	1	2.99	
7.	MAY 9	SURINAME	597429030000	R	331PM	1	2.99	
8.	MAY 9	SURINAME	597429000000	R	331PM	5	11.07	
[REDACTED]								
[REDACTED]								
[REDACTED]								
14.	MAY 12	NEW YORK	NY 212 929-5056	D P	1015AM	1	.27	
15.	MAY 12	BEVERLYHLS	CA 310 859-2365	D P	1017AM	2	.54	
16.	[REDACTED]						3.75	
17.	[REDACTED]						.39	
18.	[REDACTED]						5.12	
19.	[REDACTED]						.20	
20.	[REDACTED]						.53	
21.	[REDACTED]						.60	
22.	[REDACTED]						3.53	
23.	MAY 18	GUYANA	592247247000	R	329PM	2	4.58	
24.	MAY 18	HONG KONG	852172154140	T	331PM	7	8.90	
[REDACTED]							.20	
[REDACTED]							.20	

*Rate Applied - See Back of Page

CP 065464

(continued)▶



Account Number: [REDACTED]

Bill Date:

May 13, 1994

MELB

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FOR QUESTIONS REGARDING AT&T CHARGES CALL 1-800-222-0300

AT&T Invoice Charges For Period Ending MAY 06, 1994

AT&T TrueWorld (SM) Savings can provide you with the best value in international long distance calling. During value hours you can receive more than 35% savings off of regular AT&T standard period rates on your AT&T international direct dial calls as well as savings on international calling card, operator handled and AT&T USADirect (R) calls.

AT&T TrueWorld Savings is all about being able to talk to more of the people in the world that you care about.

More savings, during more hours of the day to more countries in the world than ever before; it's AT&T TrueWorld Savings.

Call us today for more information and your free savings evaluation at 1-800-523-9675, ext. 4443.

Direct Dialed Calls

	Date	Place Called	Number Called	*Rate	Time	Min.	
1.	APR 12	NEW YORK	NY 212 979-6410	D P	025PM	2	.54
2.	APR 12	NEW YORK	NY 212 979-6410	D P	0427PM	2	.54
							2.01
4.	APR 13	NEW YORK	NY 212 979-6410	D P	329PM	6	1.62
							5.97
							.68
7.	APR 16	REDDING	CA 916 223-2000	N P	936PM	1	.14
8.	APR 16	NEW YORK	NY 212 909-9018	N P	1015PM	1	.14
9.	APR 16	NEW YORK	NY 212 308-7370	N P	1016PM	1	.14
10.	APR 16	NEW YORK	NY 212 308-7370	N P	1017PM	1	.14

Rate Applied - See Back of Page

FP 072912

(continued)▶

 FOR QUESTIONS REGARDING AT&T CHARGES CALL 1-800-222-0300

Direct Dialed Calls (continued)

Date	Place Called	Number Called	*Rate	Time	Min.
11. APR 16	PHILA	PA 215 747-5051	N P	1019PM	1 .14
12. APR 17	REDDING	CA 916 223-2000	N P	1225AM	2 .28
13. APR 17	BRIGHTON	MA 617 782-8378	N P	1231AM	2 .28
14. APR 17	REDDING	CA 916 223-2000	N P	1216PM	1 .14
15. APR 17	PHILA	PA 215 747-5051	N P	147PM	1 .14
16. APR 17	NEW YORK	NY 212 909-9018	N P	148PM	1 .14
17. APR 17	NEW YORK	NY 212 909-9018	N P	148PM	2 .28
					0 .40
					.28
					.40
					.20
22. APR 18	REDDING	CA 916 223-2000	D P	342PM	1 .27
					4.00
					3.66
					.64
26. MAY 1	NEW YORK	NY 212 688-0711	N P	306PM	1 .14
27. MAY 1	HONG KONG	852172151140	T	310PM	2 3.75
					.40
					.20
					12 2.01
					2 5.12
					15 2.56
33. MAY 5	NEW YORK	NY 212 688-0711	D P	355PM	1 .27
34. MAY 5	NEW YORK	NY 212 319-2633	D P	356PM	1 .27
35. MAY 5	NEW YORK	NY 212 319-2633	D P	357PM	1 .27
36. MAY 5	PHILA	PA 215 747-2573	D P	402PM	1 .27
Subtotal					4.95

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FP 072912

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